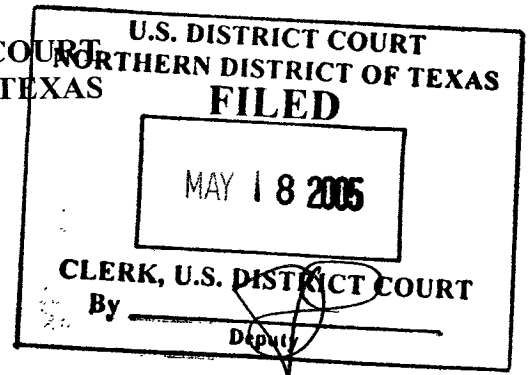


IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION



PENNSYLVANIA GENERAL  
INSURANCE COMPANY f/k/a General  
Accident Insurance Company of America  
and ONEBEACON AMERICA  
INSURANCE COMPANY f/k/a  
Commercial Union Insurance Company,

Plaintiffs,

v. ORIGINAL

CAREMARKPCS f/k/a AdvancePCS,  
and CAREMARK RX, INC.,

Defendants.

No. 3:05CV-0844G-~~Y~~  
3:05CV0844 G

**DEFENDANTS' MOTION TO DISMISS PLAINTIFFS'  
ORIGINAL COMPLAINT FOR DECLARATORY JUDGMENT,  
OR ALTERNATIVELY FOR A STAY, AND SUPPORTING BRIEF**

**EXHIBIT A**

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

FILED - CH  
CLERK OF THE CIRCUIT COURT  
2005 APR 28 PM 3:32

CAREMARKPCS, f/k/a ADVANCE  
PARADIGM, INC., and f/k/a  
ADVANCEPCS, INC.,

Plaintiff,

v.

PENNSYLVANIA GENERAL  
INSURANCE COMPANY, f/k/a  
GENERAL ACCIDENT INSURANCE  
COMPANY OF AMERICA,  
COMMERCIAL UNION INSURANCE  
COMPANY, CONTINENTAL CASUALTY  
COMPANY, and NATIONAL UNION  
FIRE INSURANCE COMPANY OF  
PITTSBURGH, PA.

Defendants.

05CH07513

Case No.: \_\_\_\_\_

**COMPLAINT FOR BREACH OF  
CONTRACT, DECLARATORY JUDGMENT, AND INSURER BAD FAITH**

Plaintiff CaremarkPCS, f/k/a AdvancePCS Paradigm, Inc., and f/k/a AdvancePCS, Inc. ("AdvancePCS"), by and through its attorneys, hereby complains of Defendants Pennsylvania General Insurance Company, f/k/a General Accident Insurance Company of America ("Pennsylvania General"), Commercial Union Insurance Company ("Commercial Union"), Continental Casualty Company ("Continental"), and National Union Fire Insurance Company of Pittsburgh, Pa ("National Union") (collectively, the "Insurers" or the "Insurer Defendants"), as follows:

**NATURE OF THE CASE**

1. This action arises out of the Insurer Defendants' complete abandonment of their insured, AdvancePCS, in the defense of an underlying third-party lawsuit, and their *de facto*

repudiation of their rights and obligations under the commercial liability insurance policies they issued. Despite their collecting in excess of \$1 million in premiums for issuing these policies to AdvancePCS, each of the Insurers chose to ignore AdvancePCS' tender of defense of the underlying lawsuit, made literally years ago, and ignored AdvancePCS' repeated requests that the Insurers fund a settlement of the underlying lawsuit once such settlement became possible.

2. Notably, while each of the Insurers turned their back on AdvancePCS, not one of them ever denied AdvancePCS' claim under their respective policy, nor did any one of them even issue so much as a timely reservation of rights or file a declaratory judgment action seeking a declaration of their rights and obligations under their policies. Instead, each of the Insurer Defendants simply kept AdvancePCS' money and ignored their insured's claims.

3. By this action, Plaintiff AdvancePCS seeks damages for the Insurers' breach of their insurance contracts and also seeks a declaration of the rights and obligations of AdvancePCS and the Insurers under the policies. In addition, AdvancePCS seeks damages caused by certain of the Insurers' vexatious, unreasonable, and bad faith refusal to provide coverage for the underlying lawsuit against AdvancePCS.

#### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over this action pursuant to 735 ILCS 5/2-209, and 5/2-701. An actual controversy exists between AdvancePCS and the Insurers regarding the existence of coverage under the Policies in connection with the Underlying Lawsuits.

5. Venue is proper in Cook County pursuant to 735 ILCS 5/2-101, 5/2-102, and 5/2-103. Defendant Continental has its principal place of business and headquarters in Chicago, Illinois, and is incorporated under the laws of this State, the other Insurer Defendants are all

authorized and/or transact business within this Circuit, and a substantial number of the events giving rise to Plaintiff's claims occurred in this Circuit.

**PARTIES**

6. Plaintiff CaremarkPCS ("Caremark") acquired AdvancePCS on March 24, 2004. AdvancePCS provided pharmacy benefit management services and therapeutic pharmaceutical services to assist corporations, insurance companies, unions, government employee groups, managed care and other organizations throughout the United States in delivering prescription drugs to their members in a cost-effective manner.

7. Defendant Pennsylvania General is in the business of, among other things, selling insurance contracts to commercial entities such as AdvancePCS. Pennsylvania General has earned substantial premium income from the sale of such insurance policies in the State of Illinois. Pennsylvania General is the issuer of a certain commercial general liability policy that insured AdvancePCS and its subsidiaries for the period October 1, 2000 to October 1, 2001.

8. Defendant Commercial Union, an affiliate of Pennsylvania General, is also in the business of, among other things, selling insurance contracts to commercial entities such as AdvancePCS. Commercial Union has earned substantial premium income from the sale of such insurance policies in the State of Illinois. Commercial Union is the issuer of a certain commercial umbrella liability policy that insured AdvancePCS and its subsidiaries for the period October 1, 2000 to October 1, 2001.

9. Defendant Continental is an Illinois corporation, with its headquarters and principal place of business located at CNA Plaza, Chicago, Illinois. Continental is also in the business of, among other things, selling insurance contracts to commercial entities such as AdvancePCS. Continental has earned substantial premium income from the sale of such

insurance policies in the State of Illinois. Continental is the issuer of a certain commercial general liability policy that insured AdvancePCS and its subsidiaries for the period October 1, 2001 to October 1, 2002.

10. Defendant National Union is also in the business of, among other things, selling insurance contracts to commercial entities such as AdvancePCS. National Union has earned substantial premium income from the sale of such insurance policies in the State of Illinois. National Union is the issuer of certain commercial umbrella policies that insured AdvancePCS and its subsidiaries for the period October 1, 2000 to October 1, 2001, and for the period October 1, 2001 to October 1, 2002.

### **BACKGROUND**

#### **I. The Insurance Policies Purchased By AdvancePCS**

11. During the relevant time frame, including during 2000, 2001, and thereafter, AdvancePCS purchased certain commercial liability insurance policies from the Insurer Defendants to provide coverage for the defense of lawsuits brought against it – including for those making “advertising injury” allegations in connection with AdvancePCS’ business operations, and to provide indemnity in the event of a settlement or judgment against AdvancePCS. In that regard, each of the insurance policies that the Insurer Defendants issued to AdvancePCS (set forth in detail below and attached as exhibits hereto) specifically provided defense and indemnity coverage – in exchange for the substantial premiums paid by AdvancePCS – for any claim or lawsuit alleging “advertising injury,” which was defined to include, among other things, “the misappropriation of advertising ideas or style of doing business,” “the use of another’s advertising idea in your advertisement,” and “infringing upon another’s ... trade dress or slogan.” In this action, AdvancePCS seeks damages for the Insurer

Defendants' breach of their insurance contracts when faced with an underlying lawsuit filed against AdvancePCS which fell squarely within the Insurers' coverage obligations.

12. On or about October 1, 2000, AdvancePCS purchased from Pennsylvania General a certain commercial general liability policy, with policy number CGL 0175221-00 (the "Pennsylvania General Policy") (a copy of which is attached hereto as Exhibit A), from Commercial Union a certain commercial umbrella policy, with policy number CRDW68775 (the "Commercial Union Policy") (a copy of which is attached hereto as Exhibit B), and from National Union a certain commercial umbrella policy, with policy number BE 3467102 (the "National Union 2000 Policy") (a copy of which is attached hereto as Exhibit C), each for substantial premiums that were timely paid by AdvancePCS.

13. The "Policy Period" for the Pennsylvania General, Commercial Union and National Union 2000 Policies was October 1, 2000 through October 1, 2001. (Ex's. A, B, and C, Declarations).

14. Pursuant to the Pennsylvania General, Commercial Union and National Union 2000 Policies, each of Pennsylvania General, Commercial Union and National Union promised to "pay those sums that the insured [AdvancePCS] becomes legally obligated to pay as damages," and they acknowledged that they had "the right and duty to defend [AdvancePCS] against any 'suit' seeking [such] damages." (Ex's. A, B and C).

15. The Pennsylvania General Policy provides that it will pay up to \$1 million for each "Claim" made (including defense costs incurred), and will pay up to \$2 million in total. (Ex. A, Declarations). The Commercial Union Policy sits on top of the Pennsylvania General Policy and provides that, once the Pennsylvania General Policy's limits have been reached, it will pay up to \$10 million for each claim, and up to \$10 million in total. (Ex. B). The National

Union 2000 Policy is the final layer, providing an additional \$10 million for each claim, and up to \$10 million total. (Ex. C). Thus, AdvancePCS had up to \$21 million in insurance available to it between the General, Commercial Union and National Union 2000 Policies for the October 1, 2000 to October 1, 2001 time period.

16. On or about October 1, 2001, AdvancePCS purchased from Continental a certain commercial general liability policy, with policy number GL 1 94324277 (the "Continental Policy") (a copy of which is attached hereto as Exhibit D), and from National Union a second commercial umbrella policy, this time with policy number BE 7392039 (the "National Union 2001 Policy") (a copy of which is attached hereto as Exhibit E), each for substantial premiums that were timely paid by AdvancePCS. The "Policy Period" for the Continental and National Union 2001 Policies was October 1, 2001 through October 1, 2002. (Ex's. D and E, Declarations).

17. Pursuant to the Continental and National Union 2001 Policies, Continental and National Union each similarly promised to pay those sums "that [AdvancePCS] becomes legally obligated to pay," and they each acknowledged that they had "the right and duty to defend" AdvancePCS against any "claim or suit seeking damages." (Ex's. D and E).

18. The Continental Policy provides that it will pay up to \$1 million for each "Claim" made (including defense costs incurred), and will pay up to \$2 million in total. (Ex. D, Declarations). The National Union 2001 Policy sits on top of the Continental Policy and provides that it will pay up to and additional \$20 million for each occurrence, and will pay up to \$20 million in total. (Ex. E, Declarations).

## II. United/AARP File Suit Against AdvancePCS

19. On December 17, 2001, United Healthcare Insurance Co. ("United Healthcare") and AARP filed a lawsuit against AdvancePCS, entitled *United Healthcare Insurance Co. and AARP v. AdvancePCS*, Case No. 01-2320 JMR (the "*United/AARP* Action"), in the United States District Court for the District of Minnesota. Shortly thereafter, AdvancePCS provided Pennsylvania General, Commercial Union, Continental and National Union with notice of the *United/AARP* action and requested that they assume their defense and indemnity obligations with respect to said action pursuant to their respective policies. A copy of the *United/AARP* action is attached hereto as Exhibit F. (Complaint at F(1) and Third Amended Complaint at F(2)).

20. In their suit, United Healthcare and AARP claimed, among other things, that AdvancePCS misappropriated its style of doing business, trade dress and advertising ideas in connection with a drug discount card program developed and implemented by AdvancePCS that allegedly resulted in confusion to both pharmacists and AARP program participants with a similar program run by United Healthcare and AARP. United Healthcare and AARP further alleged that solicitations and advertisements issued by AdvancePCS to pharmacists were part of this confusion and misappropriation of their style of doing business.

21. Based upon such allegations, the *United/AARP* action sets forth various claims, including but not limited to claims for tortious interference, unjust enrichment, and violation of the Minnesota consumer protection statutes. As relief for such claims, the *United/AARP* plaintiffs sought various injunctive relief, as well as an award of compensatory damages in excess of \$50 million, pre- and post-judgment interest, costs, attorneys' fees and other unspecified relief.



**III. The Insurers Fail to Satisfy Their Coverage Obligations for the Underlying *United/AARP* Lawsuit**

22. As stated above, AdvancePCS timely tendered the *United/AARP* action to the Insurer Defendants in early 2002. Not one of the Insurers denied AdvancePCS' claim. Nor did any of the Insurers even issue any reservation of rights. As the *United/AARP* action neared trial, the parties engaged in a concerted effort to resolve the matter short of trial.

23. On July 22, 2004, the Insurers were advised that the parties were engaged in serious settlement discussions and were working on finalizing a settlement agreement to resolve the *United/AARP* matter. Not one of the Insurer Defendants raised any objection to such settlement discussions or otherwise protested.

24. On August 4, 2004, AdvancePCS wrote to the Insurer Defendants once again advising them that settlement discussions were continuing and that the parties were close to agreeing upon the terms of a final written settlement agreement. Accordingly, AdvancePCS requested that the carriers ready their policy proceeds to fund the settlement and reimburse AdvancePCS' defense costs. Once again, not one of the Insurer Defendants raised any objection to the settlement.

25. On September 13, 2004, AdvancePCS advised the Insurer Defendants that the parties had finally reached agreement on all terms of a settlement of the Underlying Lawsuit, and AdvancePCS forwarded a copy of the Settlement Agreement to each of the Insurers. Accordingly, AdvancePCS requested that each of the Insurers tender the amounts due under their respective policies to fund the settlement and to reimburse AdvancePCS its defense costs.

26. Surprisingly, despite their having never once denied or even questioned AdvancePCS' claim for coverage of the Underlying Lawsuit, tendered years before, each of the

Insurers has refused to fund the settlement or reimburse AdvancePCS its costs of defense. Accordingly, AdvancePCS was forced to fund the \$8 million settlement on its own.

**COUNT ONE: BREACH OF CONTRACT**

27. AdvancePCS incorporates by reference, as if fully set forth herein, the statements set forth in paragraphs 1 - 26 above.

28. AdvancePCS purchased from Pennsylvania General, Commercial Union, Continental and National Union the aforementioned insurance policies that obligated the Insurers to pay defense costs incurred to defend AdvancePCS in the Underlying Lawsuit and to indemnify AdvancePCS for any settlement or judgment with respect to the Underlying Lawsuit. AdvancePCS sent timely notice of the Underlying Lawsuit to the Insurer Defendants and has otherwise complied with all provisions of the policies.

29. Nonetheless, the Insurer Defendants have wrongfully failed to defend or reimburse AdvancePCS its costs incurred to defend itself against the Underlying Lawsuit, despite it being covered under the policies. The Insurers have also wrongfully ignored their indemnity and other obligations under the policies. Accordingly, the Insurers have breached their insurance contracts with AdvancePCS.

30. As a result of the Insurers' breaches of the policies, AdvancePCS has sustained damages in an amount to be established at trial.

**COUNT TWO: DECLARATORY JUDGMENT**

31. AdvancePCS incorporates by reference, as if fully set forth herein, the allegations in Paragraphs 1 - 30 above.

32. AdvancePCS has sustained losses related to the Underlying Lawsuit that are covered by the aforementioned policies. The policies obligate the Insurer Defendants to insure

AdvancePCS with respect to the Underlying Lawsuit. Nonetheless, the Insurer Defendants failed to defend AdvancePCS in the Underlying Lawsuit and have wrongfully ignored their indemnity and other obligations under the policies.

33. A case of actual controversy exists between AdvancePCS and the Insurer Defendants as to their respective rights and obligations for the Underlying Lawsuit under the policies.

34. AdvancePCS seeks entry of a declaratory judgment to declare the rights and other legal relations of AdvancePCS and the Insurer Defendants under the policies with respect to AdvancePCS' claims for insurance coverage for the Underlying Lawsuit. Specifically, AdvancePCS seeks entry of a declaratory judgment holding that:

- (a) The Underlying Lawsuit is a claim against AdvancePCS within the meaning of the policies and is otherwise within the grants of coverage in the policies;
- (b) No exclusion in the policies bars coverage for the claim for insurance coverage made by AdvancePCS for the Underlying Lawsuit;
- (c) The Insurers are obligated to pay all costs incurred on behalf of AdvancePCS to defend the Underlying Lawsuit; and
- (d) The Insurer Defendants must indemnify AdvancePCS with respect to the Underlying Lawsuit for any amounts paid to settle and resolve the Underlying Lawsuit.

### **COUNT THREE: ESTOPPEL**

35. AdvancePCS incorporates by reference, as if fully set forth herein, the allegations set forth in paragraphs 1-34 above.

36. By virtue of the Insurers' failure to defend AdvancePCS in the Underlying Lawsuit, their *de facto* repudiation of their other obligations under the policies, their abandonment of AdvancePCS and complete lack of action with respect to the Underlying

Lawsuit, the Insurers are estopped from relying on any policy defenses that they may otherwise have asserted in defending this action.

**COUNT FOUR: INSURER BAD FAITH**

37. AdvancePCS incorporates by reference, as if fully set forth herein, the allegations set forth in paragraphs 1-36 above.

38. Continental's and National Union's refusal to honor their insurance obligations to AdvancePCS is vexatious and without reasonable basis under the policies, is contrary to their prior representations and actions, and is in violation of applicable law.

39. Continental's and National Union's bad faith refusal to acknowledge and honor their coverage obligations under the policies has caused damage to AdvancePCS over and above the breach of the insurance contracts, and has interfered with AdvancePCS' conduct of its business affairs.

40. Continental's and National Union's bad faith refusal to acknowledge and honor their coverage obligations to AdvancePCS has resulted in damages sustained by AdvancePCS in amounts to be established at trial.

**PRAYER FOR RELIEF**

WHEREFORE, CaremarkPCS, f/k/a AdvancePCS Paradigm, Inc., and f/k/a AdvancePCS, respectfully requests that the Court:

- (a) Enter judgment on Count One of the Complaint in favor of AdvancePCS and against Pennsylvania General, Commercial Union, Continental and National Union;
- (b) Enter judgment on Count One of the Complaint for compensatory damages in favor of AdvancePCS and against Pennsylvania General, Commercial Union, Continental and National Union for their respective breaches of the insurance contracts in an amount to be established by AdvancePCS at trial;

- (c) Enter a declaratory judgment on Count Two of the Complaint in favor of AdvancePCS and against Pennsylvania General, Commercial Union, Continental and National Union, declaring the following:
  - (1) The Underlying Lawsuit is a claim against AdvancePCS within the meaning of the policies and is otherwise within the grants of coverage in the policies;
  - (2) No policy exclusion bars coverage for the claim for insurance coverage made by AdvancePCS under the policies for the Underlying Lawsuit;
  - (3) The Insurer Defendants are obligated to pay all defense costs incurred on behalf of AdvancePCS to defend the Underlying Lawsuit; and
  - (4) Pennsylvania General, Commercial Union, Continental and National Union must indemnify AdvancePCS with respect to the Underlying Lawsuit for any amounts paid to settle or otherwise resolve the Underlying Lawsuit;
- (d) Enter judgment on Count Three of the Complaint in favor of AdvancePCS and against Pennsylvania General, Commercial Union, Continental and National Union declaring and adjudicating that they are each estopped from denying any duty to defend or indemnify AdvancePCS under the policies with respect to the Underlying Lawsuit;
- (e) Enter judgment on Count Four of the Complaint in favor of AdvancePCS and against Continental and National Union;
- (f) Enter judgment on Count Four of the Complaint in favor of AdvancePCS and against Continental and National Union for compensatory damages and attorneys' fees, in an amount to be established at trial, finding that their failure to acknowledge or satisfy their respective coverage obligations was vexatious and unreasonable and in violation of law, and awarding AdvancePCS reasonable attorney fees and other costs as part of the taxable costs in this action, as well as awarding AdvancePCS all other damages appropriate and permissible by law as a result of such bad faith conduct;
- (g) Award AdvancePCS its fees and costs incurred in bringing this action;

- (h) Award AdvancePCS prejudgment interest on all sums awarded to AdvancePCS in an amount to be calculated in accordance with law; and
- (i) Award to AdvancePCS such other, further, and additional relief as the Court deems just and appropriate.

**Dated:** April 28, 2005

Respectfully submitted,

CAREMARK PCS, f/k/a ADVANCE  
PARADIGM, INC., and f/k/a ADVANCEPCPCS

By: 

One of Its Attorneys

Robert H. Griffith  
Kevin P. Shea  
Michael J. Hayes, Jr.  
Michael P. McBride  
**UNGARETTI & HARRIS LLP**  
3500 Three First National Plaza  
Chicago, Illinois 60602  
(312) 977-4400  
(312) 977-4405 - Fax

A

## GENERAL ACCIDENT INSURANCE

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**CGU****ENDORSEMENT**

Not Valid Unless Signed By A Duly Authorized Representative Of The Company

Endorsement number \_\_\_\_\_

Issued by: **GENERAL ACCIDENT INSURANCE COMPANY OF AMERICA**Place of issue  
**PHILADELPHIA, PA bab**Date of issue  
**03-01-01**Endorsement effective (standard time)  
Hour **12:01 A.M.**Month  
**10**Day  
**01**Year  
**00**Amending policy no.  
**CGL 0175221-00**Issued to  
**ADVANCE PARADIGM, INC., ETAL**State code Agent code Agent name  
**730764 CBS INSURANCE, LLP.**

The above information is not required when this endorsement is issued with the policy.

This endorsement is subject to all the agreements, conditions, and exclusions of the policy. The policy is amended as indicated by typewritten entry below.

**SCHEDULE OF LOCATIONS**

1. **909 E. COLLINS BOULEVARD  
RICHARDSON, TX 75081**
2. **545 E. JOHN CARPENTER FREEWAY SUITE 1570  
IRVING, TX 75343**
3. **16629 GLENRIDGE AVENUE  
MIDDLEBURG HEIGHTS, OH 44130**
4. **14755 PRESTON ROAD  
DALLAS, TX 75240**
5. **1950 CENTURY BOULEVARD #23  
ATLANTA, GA 30345**
6. **1177 HIGH RIDGE ROAD  
STAMFORD, CT 06905**
7. **2137 WELSH ROAD  
PHILADELPHIA, PA 19115**

Additional premium Return premium  
\$ \$

Signature of authorized representative \_\_\_\_\_

**CGU****ENDORSEMENT**

Not Valid Unless Signed By A Duly Authorized Representative Of The Company

Endorsement number \_\_\_\_\_

Issued by: **GENERAL ACCIDENT INSURANCE COMPANY OF AMERICA**Place of issue **PHILADELPHIA, PA bab** Date of issue **03-01-01**Endorsement effective (standard time) Month Day Year Amending policy no.  
Hour **12:01 A.M.** **10** **01** **00** **OGL 0175221-00**Issued to  
**ADVANCE PARADIGM, INC., ETAL**State code Agent code Agent name  
**730764 CBS INSURANCE, LLP.**

The above information is not required when this endorsement is issued with the policy.

This endorsement is subject to all the agreements, conditions, and exclusions of the policy. The policy is amended as indicated by typewritten entry below.

**SCHEDULE OF LOCATIONS - (CONTINUED)**

- 8. **545 E. JOHN CARPENTER FREEWAY SUITE 1500  
IRVING, TX 75354**
- 9. **1300 E. CAMPBELL BOULEVARD  
RICHARDSON, TX 75081**
- 10. **1135 KANE CONCOURSE 4TH FL.  
BAY HARBOUR ISLAND, FL 33154**
- 11. **7301 NORTH UNIVERSITY DR. #300  
TAMARAC, FL 33210**

Additional premium Return premium

\$ \$

Signature of authorized representative \_\_\_\_\_

Not Valid Unless Signed By A Duty Authorized Representative Of The Company

Endorsement no. \_\_\_\_\_

Issued by: General Accident Insurance Company of America

Place of issue

Philadelphia, PA

Date of issue

02/21/01

Endorsement effective (standard time)

Month

Day

Year

Amending policy no.

Hour 12:01 A.M.

02

20

01

CGL 01725221-00

Issued to

Advance PCS

State code

Agent code

Agent name

730764

CBS Insurance, LLP

The above information is not required when this endorsement is issued with the policy.

This endorsement is subject to all the agreements, conditions, and exclusions of the policy. The policy is amended as indicated by typewritten entry below.

In consideration of a premium to be determined at audit, it is agreed that the policy is amended as follows:

Additional Insured:

300 Campbell, L.P. and Dominion Realty Advisors, Inc

10 North St. Paul

Suite 610

Dallas, TX 75201

Item description: 1300 E. Campbell, Richardson, TX (location)

Additional premium

Return premium

\$

Signature of authorized representative

**ENDORSEMENT**

Not Valid Unless Signed By A Duty Authorized Representative Of The Company

Endorsement no. \_\_\_\_\_

Issued by: General Accident Insurance Company of America

Place of issue

Philadelphia, PA

Date of issue

08/07/01

Endorsement effective (standard time)

Month Day Year

Hour 12:01 A.M.

06

06

01

Amending policy no.

CGL 0175221-00

Issued to

Advance PCS

State code

Agent code

Agent name

730764

CBS Insurance, LLP

The above information is not required when this endorsement is issued with the policy.

This endorsement is subject to all the agreements, conditions, and exclusions of the policy. The policy is amended as indicated by typewritten entry below.

In consideration of a premium to be determined at audit, it is agreed that the policy is amended as follows:

Additional Insured:

New Boston Management Services, Inc

New Boston Allison Two Limited Partnership

New Boston Fund, Inc

100 Pear Street

10th Floor

Hartford, CT 06103

Additional premium

Return premium

\$

Signature of authorized representative

**ENDORSEMENT**

Not Valid Unless Signed By A Duly Authorized Representative Of The Company

Endorsement no. \_\_\_\_\_

Issued by: General Accident Insurance Company of America

Place of issue

Philadelphia, PA

Date of issue

06/07/01

Endorsement effective (standard time)

Four 12:01 A.M.

Month Day Year

06 06 01

Amending policy no.

CGL 0175221-00

Issued to

Advance PCS

State code

Agent code

730764

Agent name

CBS Insurance, LLP

The above information is not required when this endorsement is issued with the policy.

This endorsement is subject to all the agreements, conditions, and exclusions of the policy. The policy is amended as indicated by typewritten entry below.

In consideration of a premium to be determined at audit, it is agreed that the policy is amended as follows:

Additional Insured:

Pericle Properties

60 Baltimore Drive

Wilkes Barre, PA 18702

Additional premium

Return premium

\$ \_\_\_\_\_

Signature of authorized representative

**ENDORSEMENT**

Not Valid Unless Signed By A Duly Authorized Representative Of The Company

Endorsement no. \_\_\_\_\_

Issued by: General Accident Insurance Company of America

Place of issue

Philadelphia, PA

Date of issue

05/04/01

Endorsement effective (standard time)

Month Day Year

Hour 12:01 A.M.

05

03

01

Amending policy no.

CGL 0175221-00

Issued to

Advance PCS

State code

Agent code

Agent name

730764

CBS Insurance, LLP

The above information is not required when this endorsement is issued with the policy.

This endorsement is subject to all the agreements, conditions, and exclusions of the policy. The policy is amended as indicated by typewritten entry below.

In consideration of a premium to be determined at audit, it is agreed that the policy is amended as follows:

Additional Insured:

Astrich No. 167 Corporation  
Paradigm Properties  
600 Corporate Exchange Drive  
Suite 175  
Columbus, OH 43231

Additional premium

Return premium

\$

Signature of authorized representative

**CGU ENDORSEMENT**

Not Valid Unless Signed By A Duly Authorized Representative Of The Company

Endorsement no. \_\_\_\_\_

Issued by: General Accident Insurance Company of America

Place of issue

Philadelphia, PA

Date of issue

02/08/01

Endorsement effective (standard time)

Hour 12:01 A.M.

Month

Day

Year

Amending policy no.

02

06

01

CGL 01725221-00

Issued to

Advance PCS

State code

Agent code

Agent name

730764

CBS Insurance, LLP

The above information is not required when this endorsement is issued with the policy.

This endorsement is subject to all the agreements, conditions, and exclusions of the policy. The policy is amended as indicated by typewritten entry below.

In consideration of a premium to be determined at audit, it is agreed that the policy is amended as follows:

Additional Insured:

Duke-Weeks Realty Corporation

431 Opus Place

Suite 120

Lawners Grove, IL 60515

Item description: Duke Realty Limited Partnership and its Affiliated Entities and Their Successors and Signs.

Other terms and conditions remain unchanged.

Additional premium

Return premium

\$

Signature of authorized representative

CGU

**ENDORSEMENT**

Not Valid Unless Signed By A Duly Authorized Representative Of The Company

Endorsement no. \_\_\_\_\_

Issued by: General Accident Insurance Company of America

Place of issue

Philadelphia, PA

Date of issue

02/08/01

Endorsement effective (standard time)

Hour 12:01 A.M.

Month Day Year

01 29 01

Amending policy no.

CGL 01725221-00

Issued to

Advance PCS

State code

Agent code

Agent name

730764

CBS Insurance, LLP

The above information is not required when this endorsement is issued with the policy.

This endorsement is subject to all the agreements, conditions, and exclusions of the policy. The policy is amended as indicated by typewritten entry below.

In consideration of a premium to be determined at audit, it is agreed that the policy is amended as follows:

Additional Insured:

EOP-Central Park, LLP

C/o Equity Office Properties Trust

1000 Central Parkway

Suite 220

Atlanta, GA 30328

All other terms and conditions remain unchanged.

Additional premium

Return premium

\$

Signature of authorized representative



**CGU****ENDORSEMENT**

Not Valid Unless Signed By A Duly Authorized Representative Of The Company

Endorsement number \_\_\_\_\_

Issued by: **GENERAL ACCIDENT INSURANCE COMPANY OF AMERICA**Place of issue  
**PHILADELPHIA, PA bab**Date of issue  
**03-01-01**Endorsement effective (standard time) Month Day Year  
Hour **12:01 A.M.** **10** **01** **00** Amending policy no.  
**CGL 0175221-00**Issued to  
**ADVANCE PARADIGM, INC., ETAL**State code Agent code Agent name  
**730764 CBS INSURANCE, LLP.**

The above information is not required when this endorsement is issued with the policy.

This endorsement is subject to all the agreements, conditions, and exclusions of the policy. The policy is amended as indicated by typewritten entry below.

**SCHEDULE OF FORMS AND ENDORSEMENTS**

G-1881	NAMED INSURED
G-1881	BROAD NAMED INSURED
G-1881	SCHEDULE OF LOCATIONS
G-1881	COMPOSITE RATE ENDORSEMENT
G-1881	CANCELLATION AMENDMENT
G-1881	UNINTENTIONAL ERRORS OR OMISSIONS
G-1881	NON-OWNED WATERCRAFT AMENDED
G-1881	BLANKET ADDITIONAL INSURED WHERE REQUIRED BY CONTRACT OR AGREEMENT
G-1881	AMENDED NOTICE OF OCCURRENCE
G-1881	COMPUTER DATA PROCESSING PROFESSIONAL LIABILITY
G-1881	FIRE DAMAGE AMENDMENT
G-1881	ASBESTOS EXCLUSION
G-1881	NUCLEAR EXCLUSION
G-1881	INTERCOMPANY SALES EXCLUDED FROM AUDIT
CG 0001 (01-96)	COMMERCIAL GENERAL LIABILITY COVERAGE FORM
IL 0258	ARIZONA CHANGES - CANCELLATION AND NON-RENEWAL
IL 0260	CONNECTICUT CHANGES - CANCELLATION AND NON-RENEWAL
CG 0220	FLORIDA CHANGES - CANCELLATION AND NON-RENEWAL
IL 0262	GEORGIA CHANGES - CANCELLATION AND NON-RENEWAL
CG 2605	MINNESOTA CHANGES
IL 0245	MINNESOTA CHANGES - CANCELLATION AND NON-RENEWAL
IL 0244	OHIO CHANGES - CANCELLATION AND NON-RENEWAL
IL 0246	PENNSYLVANIA CHANGES - CANCELLATION AND NON-RENEWAL
IL 0910	PENNSYLVANIA NOTICE

Additional premium Return premium

\$ \_\_\_\_\_ \$ \_\_\_\_\_

Signature of authorized representative \_\_\_\_\_

**CGU****ENDORSEMENT**

Not Valid Unless Signed By A Duty Authorized Representative Of The Company

Endorsement number \_\_\_\_\_

Issued by: <b>GENERAL ACCIDENT INSURANCE COMPANY OF AMERICA</b>				
Place of issue <b>PHILADELPHIA, PA bab</b>			Date of issue <b>03-01-01</b>	
Endorsement effective (standard time) Hour <b>12:01 A.M.</b>	Month <b>10</b>	Day <b>01</b>	Year <b>00</b>	Amending policy no. <b>CGL 0175221-00</b>
Issued to <b>ADVANCE PARADIGM, INC., ETAL</b>				
State code	Agent code <b>730764</b>	Agent name <b>CBS INSURANCE, LLP.</b>		

The above information is not required when this endorsement is issued with the policy.

This endorsement is subject to all the agreements, conditions, and exclusions of the policy. The policy is amended as indicated by typewritten entry below.

**SCHEDULE OF FORMS AND ENDORSEMENT - (CONTINUED)**

CG 0103	TEXAS CHANGES - CONDITIONS REQUIRING NOTICE
CG 0205	TEXAS CHANGES - AMENDMENT OF CANCELLATION PROVISIONS OR COVERAGE CHANGES
CG 2639	TEXAS CHANGES - EMPLOYMENT-RELATED PRACTICE EXCLUSION
IL 0168	TEXAS CHANGES - DUTIES
IL 0275	TEXAS CHANGES - CANCELLATION AND NON-RENEWAL PROVISIONS FOR CASUALTY LINES AND COMMERCIAL PACKAGE POLICIES
IL 0021	NUCLEAR ENERGY LIABILITY EXCLUSION ENDT. (BROAD FORM) (TEXAS)
CG 2028	ADDITIONAL INSURED - LESSOR OF LEASED EQUIPMENT
CG 2011	ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES
CG 2021	ADDITIONAL INSURED - VOLUNTEER WORKERS
CG 0055	AMENDMENT OF OTHER INSURANCE CONDITION (OCCURRENCE VERSION)
CG 0054	AMENDMENT OF POLLUTION EXCLUSION - EXCEPTION FOR BUILDING HEATING EQUIPMENT
CG 0424	COVERAGE FOR INJURY TO LEASED WORKERS
CG 0300	DEDUCTIBLE LIABILITY INSURANCE (NOT APPLICABLE IN NH AND VA)
CG 2147	EMPLOYMENT-RELATED PRACTICES EXCLUSION (NOT APPLICABLE IN TX AND WA)
L 2661	EMPLOYEE BENEFITS LIABILITY
CG 2116	EXCLUSION - DESIGNATED PROFESSIONS SERVICES
CG 2141	EXCLUSION - INTER-COMPANY PRODUCTS SUITS
CG 2404	WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US
CG 0057	AMENDMENT OF INSURING AGREEMENT-KNOWN INJURY OR DAMAGE
CG 2269	DRUGGIST LIABILITY
CG 2160	YEAR 2000 EXCLUSION
CG 2165	TOTAL POLLUTION EXCLUSION WITH HEATING EQUIP. & HOSTILE FIRE EXCEPTION

Additional premium \_\_\_\_\_ Return premium \_\_\_\_\_

 \$ \_\_\_\_\_ \$ \_\_\_\_\_  
 Signature of authorized representative \_\_\_\_\_

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Issued to <b>ADVANCE PARADIGM, INC., ETAL</b>				
State code	Agent code <b>730764</b>	Agent name <b>CBS INSURANCE, LLP.</b>		

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**NAMED INSURED ENDORSEMENT**

ADVANCEPCS, INC.  
 ADVANCE PARADIGM, INC.  
 ADVANCERY.com  
 ADVP, OPERATIONS, L.P.  
 ADVP MANAGEMENT, L.P.

ADVP CONSOLIDATION, L.L.C.  
 PCS HEALTH SYSTEMS, INC.  
 PCS OF NEW YORK, INC.  
 PCS SERVICES INC

PCS MAIL SERVICES, INC.  
 PCS MAIL SERVICES OF BIRMINGHAM, INC.  
 PCS MAIL SERVICES OF FORT WORTH, INC.  
 PCS MAIL SERVICES OF SCOTTSDALE, INC.  
 CLINICAL PHARMACEUTICALS, INC.

Additional premium	Return premium
\$ _____	\$ _____
Signature of authorized representative	

**CGU****ENDORSEMENT**

Not Valid Unless Signed By A Duly Authorized Representative Of The Company

Endorsement number \_\_\_\_\_

Issued by: <b>GENERAL ACCIDENT INSURANCE COMPANY OF AMERICA</b>					
Place of issue <b>PHILADELPHIA, PA bab</b>				Date of issue <b>03-01-01</b>	
Endorsement effective (standard time) Hour <b>12:01 A.M.</b>		Month <b>10</b>	Day <b>01</b>	Year <b>00</b>	Amending policy no. <b>CGL 0175211-00</b>
Issued to <b>ADVANCE PARADIGM, INC., ETAL</b>					
State code	Agent code	Agent name			
	<b>730764</b>	<b>CBS INSURANCE, LLP.</b>			

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY**  
**THIS ENDORSEMENT REPLACES ANY POLLUTION EXCLUSION AND AMENDS ALL**  
**INSURANCE PROVIDED UNDER THE FOLLOWING:**

**COMMERCIAL GENERAL LIABILITY FORM****AMENDATORY ENDORSEMENT-ABSOLUTE POLLUTION EXCLUSION**

**THIS ENDORSEMENT DOES NOT APPLY TO ANY INJURY, DAMAGE, EXPENSE,  
 COST, LOSS, LIABILITY OR LEGAL OBLIGATION ARISING OUT OF OR IN ANY  
 WAY RELATED TO POLLUTION, HOWEVER CAUSED.**

**POLLUTION INCLUDES THE ACTUAL, ALLEGED OR POTENTIAL PRESENCE IN  
 OR INTRODUCTION INTO THE ENVIRONMENT OF ANY SUBSTANCE IF SUCH SUBSTANCE  
 HAS, OR IS ALLEGED TO HAVE, THE EFFECT OF MAKING THE ENVIRONMENT  
 IMPURE, HARMFUL, OR DANGEROUS. ENVIRONMENT INCLUDES ANY AIR, LAND,  
 STRUCTURE OR THE AIR THEREIN, WATERCOURSE OR WATER, INCLUDING UNDERGROUND  
 WATER.**

**WE SHALL HAVE NO DUTY TO DEFEND ANY SUIT ARISING OUT OF OR IN ANY  
 WAY RELATED TO POLLUTION.**

Additional premium	Return premium
\$ _____	\$ _____
Signature of authorized representative _____	

**CGU****ENDORSEMENT**

Not Valid Unless Signed By A Duly Authorized Representative Of The Company

Endorsement number \_\_\_\_\_

Issued by: **GENERAL ACCIDENT INSURANCE COMPANY OF AMERICA**

Place of issue **PHILADELPHIA, PA bab** Date of issue **03-01-01**

Endorsement effective (standard time) Month **10** Day **01** Year **00** Amending policy no. **CGL 0175221-00**

Hour **12:01 A.M.**

Issued to **ADVANCE PARADIGM, INC., ETAL**

State code **730764** Agent code **CBS INSURANCE, LLP.** Agent name

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**AMENDATORY ENDORSEMENT - WATERCRAFT**

IT IS AGREED THAT SECTION I - COVERAGE 2. EXCLUSIONS IS AMENDED TO READ:

G. (2) A WATERCRAFT YOU DO NOT OWN THAT IS:

(A) LESS THAN 51 FEET LONG

Additional premium \_\_\_\_\_ Return premium \_\_\_\_\_

\$ \_\_\_\_\_ \$ \_\_\_\_\_

Signature of authorized representative \_\_\_\_\_

**CGU****ENDORSEMENT**

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Place of issue <b>PHILADELPHIA, PA bab</b>			Date of issue <b>03-01-01</b>	
Endorsement effective (standard time)	Month	Day	Year	Amending policy no.
Hour <b>12:01 A.M.</b>	<b>10</b>	<b>01</b>	<b>00</b>	<b>CGL 0175221-00</b>
Issued to <b>ADVANCE PARADIGM, INC., ETAL</b>				
State code	Agent code	Agent name		
	<b>730764</b>	<b>CBS INSURANCE, LLP.</b>		

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**KNOWLEDGE OF OCCURRENCE**

**IT IS AGREED THAT KNOWLEDGE OF OCCURRENCE BY AN AGENT, SERVANT OR EMPLOYEE OF THE INSURED SHALL NOT IN ITSELF CONSTITUTE KNOWLEDGE BY THE INSURED UNLESS AND UNTIL THE INSURED'S REPRESENTATIVE RESPONSIBLE FOR INSURANCE SHALL HAVE RECEIVED SUCH NOTICE FROM ITS AGENT, SERVANT OR EMPLOYEE.**

Additional premium	Return premium
\$ _____	\$ _____
Signature of authorized representative _____	

**CGU****ENDORSEMENT**

Not Valid Unless Signed By A Duly Authorized Representative Of The Company

Endorsement number \_\_\_\_\_

Issued by: **GENERAL ACCIDENT INSURANCE COMPANY OF AMERICA**

Place of issue **PHILADELPHIA, PA bab** Date of issue **03-01-01**

Endorsement effective (standard time) Month Day Year Amending policy no.  
 Hour **12:01 A.M.** **10** **01** **00** **CGL 0175221-00**

Issued to **ADVANCE PARADIGM, INC., ETAL**

State code Agent code Agent name  
**730764** **CBS INSURANCE, LLP.**

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**NOTICE OF CANCELLATION ENDORSEMENT**

IT IS AGREED THAT IN THE EVENT OF CANCELLATION (EXCEPT FOR NON-PAYMENT OF PREMIUM), NON-RENEWAL OR MATERIAL CHANGE IN RATES, COVERAGE, TERMS OR CONDITIONS, NINETY (90) DAYS' WRITTEN NOTICE WILL BE MAILED TO THE NAMED INSURED.

IN THE EVENT OF CANCELLATION FOR NON-PAYMENT OF PREMIUM, TEN (10) DAYS' WRITTEN NOTICE WILL BE MAILED TO THE INSURED.

Additional premium Return premium  
 \$ \$

Signature of authorized representative \_\_\_\_\_

**CGU****ENDORSEMENT**

Not Valid Unless Signed By A Duly Authorized Representative Of The Company

Endorsement number \_\_\_\_\_

Issued by: **GENERAL ACCIDENT INSURANCE COMPANY OF AMERICA**Place of issue **PHILADELPHIA, PA bab** Date of issue **03-01-01**Endorsement effective (standard time) Month **10** Day **01** Year **00** Amending policy no. **CGL 0175221-00**  
Hour **12:01 A.M.**Issued to **ADVANCE PARADIGM, INC., ETAL**State code Agent code **730764** Agent name **CBS INSURANCE, LLP.**

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**UNINTENTIONAL ERRORS AND OMISSIONS**

IT IS AGREED THAT YOUR RIGHTS UNDER THIS POLICY WILL NOT BE PREJUDICED IF YOU FAIL TO GIVE NOTICE OF AN OCCURRENCE DUE SOLELY TO YOUR REASONABLE BELIEF THAT THE BODILY INJURY, PROPERTY DAMAGE, PERSONAL INJURY OR ADVERTISING INJURY IS NOT COVERED BY THIS INSURANCE.

IT IS FURTHER AGREED THAT THE UNINTENTIONAL OMISSION OF, OR UNINTENTIONAL ERROR OF ANY INFORMATION PROVIDED BY YOU SHALL NOT PREJUDICE YOUR RIGHTS UNDER THIS INSURANCE. HOWEVER, THIS PROVISION DOES NOT AFFECT OUR RIGHT TO COLLECT ADDITIONAL PREMIUM OR EXERCISE OUR RIGHT OF CANCELLATION OR NON-RENEWAL.

Additional premium Return premium

\$ \$

Signature of authorized representative \_\_\_\_\_



**CGU****ENDORSEMENT**

Not Valid Unless Signed By A Duty Authorized Representative Of The Company

Endorsement number \_\_\_\_\_

Issued by: **GENERAL ACCIDENT INSURANCE COMPANY OF AMERICA**Place of issue  
**PHILADELPHIA, PA bab**Date of issue  
**03-01-01**

Endorsement effective (standard time)	Month	Day	Year	Amending policy no.
Hour <b>12:01 A.M.</b>	<b>10</b>	<b>01</b>	<b>00</b>	<b>CGL 0175221-00</b>

Issued to  
**ADVANCE PARADIGM, INC., ETAL**

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	<b>730764</b>	<b>CBS INSURANCE, LLP.</b>

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**ENDORSEMENT LIMITS: \$1,000,000 EACH OCCURRENCE/ \$2,000,000 GENERAL AGGREGATE  
INCLUDING A \$250,000 DED., EACH AND EVERY. (INCL. ALAE)****COVERAGE APPLIES ONLY IF THE CLAIM IS BOTH MADE AGAINST THE INSURED AND REPORTED  
TO THE INSURER DURING THE POLICY PERIOD AND ARISES FROM ACTS THAT TOOK PLACE ON  
OR AFTER THE POLICY RETROACTIVE DATE.****ALLOCATED LOSS ADJUSTMENT EXPENSE IS INSIDE ENDORSEMENT LIMIT.****THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:****COMMERCIAL GENERAL LIABILITY COVERAGE PART****THE FOLLOWING IS ADDED TO SECTION 1 - COVERAGE.****THIS INSURANCE APPLIES TO "BODILY INJURY", "PROPERTY DAMAGE" OR "PERSONAL AND ADVERTISING  
INJURY" ARISING OUT OF THE RENDERING OF, OR FAILURE TO RENDER ELECTRONIC DATA PROCESSING  
SERVICES BY:**

- a. THE INSURED; OR
- b. ANY PERSON OR ORGANIZATION FOR WHOSE ACTS, ERRORS OR OMISSIONS THE INSURED  
IS LEGALLY RESPONSIBLE

**THE FOLLOWING EXCLUSION IS ADDED TO PARAGRAPH 2. EXCLUSIONS SECTION 1 - COVERAGE  
A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY AND SECTION 1 - COVERAGE B -  
PERSONAL AND ADVERTISING INJURY LIABILITY.****THIS COVERAGE DOES NOT APPLY TO "BODILY INJURY", "PROPERTY DAMAGE" OR "PERSONAL  
AND ADVERTISING INJURY" ARISING OUT OF COMPUTER SOFTWARE PROGRAMS:**

Additional premium                      Return premium

\$ \_\_\_\_\_ \$ \_\_\_\_\_

Signature of authorized representative \_\_\_\_\_

**CGU****ENDORSEMENT**

Not Valid Unless Signed By A Duly Authorized Representative Of The Company

Endorsement number \_\_\_\_\_

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Hour <b>12:01 A.M.</b>		<b>10</b>	<b>01</b>	<b>00</b>	<b>CGL 0175221-00</b>
Issued to <b>ADVANCE PARADIGM, INC., ETAL</b>					
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**COMMERCIAL GENERAL LIABILITY COVERAGE PART - (CONTINUED)**

1. DEVELOPED AND MANUFACTURED BY YOU;
2. DEVELOPED BY YOU AND MANUFACTURED BY OTHERS UNDER A CONTRACT; OR
3. DEVELOPED BY OTHERS AND MANUFACTURED BY YOU UNDER A CONTRACT.

PARAGRAPH f. OF THE DEFINITION OF "INSURED CONTRACT" ADDITIONALLY DOES NOT INCLUDE ANY LICENSING, FRANCHISING OR SIMILAR AGREEMENT WITH RESPECT TO THE MANUFACTURING AND OR DEVELOPMENT OF COMPUTER SOFTWARE PROGRAMS.

Additional premium                      Return premium

\$    \$

Signature of authorized representative \_\_\_\_\_

## COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under WHO IS AN INSURED (SECTION II).

Other words and phrases that appear in quotation marks have special meaning. Refer to DEFINITIONS (SECTION V).

### SECTION I - COVERAGES

#### COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

##### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in LIMITS OF INSURANCE (SECTION III); and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS - COVERAGES A AND B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory"; and
- (2) The "bodily injury" or "property damage" occurs during the policy period.

- c. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death, resulting at any time from the "bodily injury".

##### 2. Exclusions

This insurance does not apply to:

###### a. Expected or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

###### b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
  - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and

- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

**c. Liquor Liability**

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

**d. Workers Compensation and Similar Laws**

Any obligation of the insured under a workers compensation, disability benefits or unemployment compensation law or any similar law.

**e. Employer's Liability**

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or
  - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

**f. Pollution**

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants:

- (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured;

- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for any insured or any person or organization for whom you may be legally responsible; or

- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations:

- (i) If the pollutants are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor; or

- (ii) If the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants.

Subparagraph (d)(i) does not apply to "bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the fuels, lubricants or other operating fluids are intentionally discharged, dispersed or released, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent to be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

**k. Damage to Your Product**

"Property damage" to "your product" arising out of it or any part of it.

**l. Damage to Your Work**

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

**m. Damage to Impaired Property or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

**n. Recall of Products, Work or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in LIMITS OF INSURANCE (Section III).

**COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY**

**1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal injury" or "advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal injury" or "advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" or offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in LIMITS OF INSURANCE (SECTION III); and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS - COVERAGES A AND B.

**b. This insurance applies to:**

- (1) "Personal injury" caused by an offense arising out of your business, excluding advertising, publishing, broadcasting or telecasting done by or for you;
- (2) "Advertising injury" caused by an offense committed in the course of advertising your goods, products or services;

but only if the offense was committed in the "coverage territory" during the policy period.

**2. Exclusions**

This insurance does not apply to:

**a. "Personal injury" or "advertising injury":**

- (1) Arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity;



- (2) Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period;
- (3) Arising out of the willful violation of a penal statute or ordinance committed by or with the consent of the insured;
- (4) For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement; or
- (5) Arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants at any time.

b. "Advertising injury" arising out of:

- (1) Breach of contract, other than misappropriation of advertising ideas under an implied contract;
- (2) The failure of goods, products or services to conform with advertised quality or performance;
- (3) The wrong description of the price of goods, products or services; or
- (4) An offense committed by an insured whose business is advertising, broadcasting, publishing or telecasting.

c. Any loss, cost or expense arising out of any:

- (1) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of pollutants.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

**COVERAGE C. MEDICAL PAYMENTS**

**1. Insuring Agreement**

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
  - (1) On premises you own or rent;

- (2) On ways next to premises you own or rent; or

- (3) Because of your operations; provided that:

- (1) The accident takes place in the "coverage territory" and during the policy period;
- (2) The expenses are incurred and reported to us within one year of the date of the accident; and
- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

**2. Exclusions**

We will not pay expenses for "bodily injury":

- a. To any insured.
- b. To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. To a person injured on that part of premises you own or rent that the person normally occupies.
- d. To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers compensation or disability benefits law or a similar law.
- e. To a person injured while taking part in athletics.
- f. Included within the "products-completed operations hazard".
- g. Excluded under Coverage A.
- h. Due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.

**SUPPLEMENTARY PAYMENTS - COVERAGES A AND B**

We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

1. All expenses we incur.
2. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
3. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
4. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
5. All costs taxed against the insured in the "suit".
6. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
7. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- b. This insurance applies to such liability assumed by the insured;
- c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;

e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and

f. The indemnitee:

(1) Agrees in writing to:

- (a) Cooperate with us in the investigation, settlement or defense of the "suit";
- (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
- (c) Notify any other insurer whose coverage is available to the indemnitee; and
- (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(2) Provides us with written authorization to:

- (a) Obtain records and other information related to the "suit"; and
- (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of paragraph 2.b.(2) of COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY (Section I - Coverages), such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in paragraph f. above, are no longer met.

## SECTION II - WHO IS AN INSURED

### 1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

### 2. Each of the following is also an insured:

- a. Your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" is an insured for:

#### (1) "Bodily injury" or "personal injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while that co-"employee" is either in the course of his or her employment or performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraphs (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

#### (2) "Property damage" to property:

- (a) Owned, occupied or used by.
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company)

- b. Any person (other than your "employee"), or any organization while acting as your real estate manager.

- c. Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

3. With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

4. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier.